

AN
AUTHORITY
ON MINES AND
MINING.

The Oasis

THE
BEST WEEKLY
NEWSPAPER
IN ARIZONA.

SECOND SERIES,
Vol. VIII, No. 10

NOGALES, ARIZONA, SATURDAY, FEBRUARY 2, 1907.

Whole No. 716

REQUISITION REFUSED.

GOVERNOR KIBBEY REFUSES TO HONOR DEMAND OF GOVERNOR OF OHIO

For Return to That State of J. L.
Sheperd, Upon Trumped Up Charges
Made by Opponents in Mining
Litigation.

Last week THE OASIS contained an extended account of the trouble in the Realito Consolidated Mining Company, preceding and in the annual election, the latter at Nogales on the 21st ult. At the time the account closed the stockholders' meeting of the corporation had been controlled by the friends of Mr. Sheperd and a directorate and officials elected who are friendly to him, and Mr. Sheperd had gone to Phoenix under a writ of habeas corpus, he having been arrested upon a telegram from the chief of police of Columbus, Ohio, charging that he was wanted there for obtaining money under false pretences, the allegation being that he had sold stock in the company he had represented as owning certain mines, to which it was asserted there was no title; while Messrs. Haas and Weinlein were out upon their own recognizance under charges of conspiracy lodged by Mr. Sheperd before Justice Gildea.

Sheriff Saxon went to Phoenix with Mr. Sheperd Wednesday of last week. Upon reaching that place it was learned that an officer from the state of Ohio was en route to Arizona armed with a requisition for the return of the prisoner to that state for trial upon the charges under which he was claimed; and it was determined to defer presentation of the writ of habeas corpus to await the outcome of an effort to have refused by Governor Kibbey the requisition from the chief executive of the sovereign state of Ohio. Were extradition refused the matter would be settled at once; but were it granted there would be yet in reserve a writ of habeas corpus with the right of appeal to the supreme court, in case release was denied under the writ. So matters stood in abeyance until the messenger from Ohio could arrive with the requisition papers. As he was not expected to arrive at Phoenix until Sunday night hearing was postponed until Monday morning, and the party, consisting of Sheriff Saxon, Mr. Sheperd and his attorney, the noted orator, Col. Thos. Fitch, put in the time as best they could, riding in the electric cars, visiting the legislature, attending badger fights, and other innocent diversions and amusements. Friday night Mr. Ellinger, one of Mr. Sheperd's friends in the difficulty, went over to the capital; and Sunday evening the party was augmented by arrival of Mr. Bird, another who had lined up with Mr. Sheperd in the squabble; statements from them being considered important, whether in extradition or in habeas corpus proceedings.

Mr. Ellinger reached the Arizona capital in ample time to participate in the badger drawing, and divers other diversions, but Mr. Bird failed to get there until after the fun was all over and the serious business of the trip was about due.

Monday morning Sheriff Saxon presented Mr. Sheperd at the executive office, Mr. O. D. Hamer, from Columbus, Ohio, appearing also and presenting to Governor Kibbey the papers he had brought. Mr. Sheperd was represented by Colonel Thos. Fitch and ex-Chief Justice Baker. Col. Allen T. Bird and W. H. Ellinger appeared as witnesses for Mr. Sheperd. The territory was represented by Attorney General E. S. Clark.

After careful examination of the papers Judge Baker presented an eloquent and elaborate argument presenting the legal features of the extent and the power of a returning executive in such cases, after which Mr. Fitch entered into an analysis of the allegations set forth in the papers, and the examination of witnesses who denied the truth of the allegations therein, and tended to show that Mr. Sheperd was a victim of a conspiracy on the part of certain members of his own corporation to extort from him a larger share in the enterprise than they had been allotted at the beginning.

The allegations set forth in the complaints, of which there were four, upon which the warrant for arrest was issued in Ohio, was that Mr. Sheperd had sold stock in a mining corporation (the Realito Copper, Gold and Silver Mining & Reduction Company) representing that he had made over to the company titles to the Mina Colorada and Mina Verde, two mines in Mexico, when in reality so it was alleged he had no such titles, and had not conveyed to the company any such ground. Mr. Sheperd presented the titles, from Porfirio Diaz, president of Mexico, to the Realito de Cobre mining properties, a great denouncement of 400 pertenencias, and claimed that the Mina Verde and Mina Colorada are within the area established by the surveys of the Realito de Cobre, and upon this point his version was substantiated by Colonel Bird, who had made a careful examination and report upon the properties. Mr. Bird demonstrated also that the Fortuna de Plata, another property deeded by Mr. Sheperd to the Realito corporation, included within its boundaries no less than three *antigua* mines of almost world wide fame in the old Spanish days in Sonora, viz.: the Refugio, and the Sobre de Solas and another not so well known, and that like the Mina Verde and Mina Colorada they maintained locally their ancient names, while being held under the titles of the Fortuna de Plata denouncements, made by Mr. Sheperd; and that to aver that he owned those three mines and had deeded them to the Realito Company, would not be misrepresentation, because the ground is really included within the lines of the ground covered by the Fortuna de Plata titles. Mr. Ellinger, who was the secretary of the company,

recounted to his excellency how Weinlein had told him in Columbus that they intended "doing Sheperd out of the Realito," just as some other people in Ohio had done him out of another property, and Mr. Ellinger recounted also some admissions by Haas that went to show that he also was in the probable conspiracy. Mr. Sheperd related how those two and some others in the corporation had extorted from him a contract to yield a large part of his own stock (not yet issued) in the company, which contract they had vainly endeavored to get a quorum of the board of directors to approve, and how, with a quorum present, with Colonel Bird, vice president, in the chair, at Columbus, the extorted contract had been disapproved by the board, and his stock issued to him, the certificate signed by the vice-president and the secretary, under resolution adopted duly by the board of directors. And Mr. Fitch recounted the proceedings at the annual meeting of the company at Nogales, on the 21st ult., by which Haas and Weinlein were finally ousted as directors and officers of the corporation. Mr. Fitch stated further that he had evidence that the two men named, (Haas and Weinlein) had gone to Hermosillo, in violation of an injunction from the district court, and attempted to call a meeting there of the Mexican holding company, but had failed through the perspicacity of Mr. Charles R. Miles, secretary of that corporation.

The matter being presented completely Governor Kibbey took the case under advisement, and Tuesday morning his excellency officially informed the messenger from Ohio, and Sheriff Saxon, that he would not honor the requisition and he further informed Mr. Sheperd that he was free to go. The governor based his refusal to honor the requisition upon four grounds, viz.: That the complaint failed to show that there had been any damage done the complainants; second that there had been shown conclusively that Mr. Sheperd had not misrepresented in claiming the Mina Verde and Mina Colorada; third that everything went to show that Mr. Sheperd was not a fugitive from justice in Ohio, as claimed; and fourth, that the requisition seemed an attempt to use the criminal process in lieu of civil proceedings.

The upshot was that the messenger from Ohio went back to Columbus empty handed, and the effort to use the criminal process in settlement of civil litigation has fallen flat.

Mr. Sheperd declares that the matter shall not end in his discharge from custody, but that someone in Ohio will have to pay for the aspersions cast upon his integrity and honesty, and for the indignity to which he was subjected when he was dragged half way across Arizona in chains in a futile effort to get him back to Ohio upon trumped up criminal charges. Some of the men who swore to the complaints upon which a warrant was issued for his

arrest and a man sent to Arizona to take him back to Ohio, are amply able to pay for such luxuries; and he declares that they shall be called upon to pay under the laws of Ohio. When he gets matters all arranged here to suit, and at the mines, the gentleman will go to Ohio, and some of the gentry who have resorted to the criminal law in their effort to "do him up" will have their hearts' content with litigation.

Monday morning Messrs. Haas and Weinlein appeared before Justice Gildea to answer to the charge against them, but the case went over, owing to the unavoidable absence at Phoenix of the prosecuting witness and his attorney, Wednesday being set for the hearing. Owing to delay at Phoenix and Maricopa it was impossible for Messrs. Fitch and Sheperd to reach Nogales Tuesday evening, and rather than ask further extension of time it was thought best to let the matter go by default, so the defendants were discharged. They can be attended to, says Mr. Sheperd, with the other fellows in Columbus. The three civil suits mentioned last week are yet on the calendar, and they will be tried out, avers Mr. Sheperd.

At the present writing the Sheperd faction in the Realito Company have the advantage decidedly. They remain in possession of the company and the property, and arrangements are in hand for financing the enterprise on a grand scale, supplying all the funds necessary to conduct operations effectively and with expedition. By the time the extension of the Cananea, Rio Yaqui & Pacific railway reaches the property which will be within six months, there will be ready for shipment a large tonnage of high grade ores that will net a handsome sum of money, to be devoted to further exploration and purchase of machinery for reduction of the ores that will not pay to ship, but which will yield handsomely if reduced at the camp. And extensive development in the great copper field will be prosecuted with all vigor.

The extension of the Cananea, Rio Yaqui & Pacific railway northward toward Tonichi and Cananea will pass between the Realito properties and the river, on the west side, and in no event will they be more than two miles away from any of the workings on the great properties owned by the Realito company. From the station which will be established at Realito, or in the vicinity, it is but about 140 miles to Guaymas, which short distance to tidewater, and the cheap freight rate thus assured, will give an economy of operation that can be nowhere bettered, save in one or two instances where great mines are located right at good harbors. The trouble that culminated in the courts this week has attracted universal attention to these mines, and, like the Cananea litigation of seven years ago, will advertise them far and wide as a splendid investment. The lucky owners feel that they have one of the greatest enterprises in Mexico.